

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 259

Introduced by Assembly Member Hancock

February 8, 2005

An act to add Section 25847 to the Government Code, relating to solid waste collection liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 259, as amended, Hancock. Contra Costa County solid waste: liens.

Existing law grants various powers to county boards of supervisors, such as the abatement of nuisances, for which it may impose assessments to pay the costs of services performed and authorizes recordation of liens to enforce the assessments.

This bill would enact a procedure that authorizes the Board of Supervisors of Contra Costa County to impose assessments against parcels and record liens for unpaid solid waste collection services.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25847 is added to the Government
- 2 Code, to read:
- 3 25847. (a) If the Board of Supervisors of Contra Costa
- 4 County provides solid waste collection service by exclusive or
- 5 nonexclusive franchise with one or more solid waste enterprises,
- 6 and ~~by ordinance, provides~~ *provides by ordinance* that
- 7 subscription to solid waste collection services is compulsory for

1 occupied ~~residential~~ parcels, the board may, by ordinance,
2 provide for the collection of amounts unpaid and owed to the
3 franchised solid waste enterprise for a period of 60 days or more,
4 as provided in this section. *The board may, by ordinance, require*
5 *the franchised solid waste enterprise to continue providing*
6 *collection service during periods of nonpayment for the service.*

7 (b) At a minimum, the ordinance shall require that the owner
8 of the parcel, and anyone known to be in possession of the
9 parcel, be given notice by mail of the amounts owed to the
10 franchised solid waste enterprise, and be given an opportunity to
11 appear and be heard before the board of supervisors. The
12 ordinance shall require that the board shall conduct a hearing to
13 hear any objections and protests of the property owner and
14 anyone in possession of the property, and based upon the record,
15 make findings as to the amounts owed, if any.

16 (c) The ordinance may authorize the board, if it finds,
17 *pursuant to subdivision (b)*, that amounts are owed to the ~~solid~~
18 ~~waste board of supervisors~~ *franchised solid waste enterprise*, and
19 if the owner or other person in possession of the parcel fails to
20 pay the unpaid amounts within the time limit specified by the
21 board, to order the unpaid amounts to be specially assessed
22 against the parcel. The ordinance may provide that the
23 assessment may be collected at the same time and in the same
24 manner as ordinary county taxes are collected, and may be
25 subject to the same penalties and the same procedure and sale in
26 case of delinquency as are provided for ordinary county taxes.
27 The ordinance may provide that the county's administrative costs
28 of collecting the unpaid charges may be included in the special
29 assessment if the owner and any other person in possession of the
30 parcel is given written notice before the hearing before the board,
31 and the board finds that amounts are owed to the franchised solid
32 waste enterprise. All laws applicable to the levy, collection, and
33 enforcement of county taxes are applicable to the special
34 assessment.

35 (d) If the board of supervisors specially assesses the unpaid
36 amounts, including any administrative costs, against the parcel,
37 the board may also cause a notice of lien to be recorded. The
38 notice, at a minimum, shall identify the record owner and the
39 possessor of the property. If those parties are different, the notice
40 shall set forth the date upon which the payment was ordered by

1 the board. The notice shall include a description of the real
2 property subject to the lien, and the amount of the special
3 assessment.

4 (e) If the board of supervisors does not cause the recordation
5 of a notice of lien pursuant to subdivision (d), and any real
6 property to which the costs relates has been transferred or
7 conveyed to a bona fide purchaser for value, or a lien of a bona
8 fide encumbrancer for value has been created and attaches to that
9 property, prior to the date on which the first installment of county
10 taxes would become delinquent, then the special assessment shall
11 not result in a lien against that real property but shall be
12 transferred to the unsecured roll for collection.

13 (f) The recordation of a notice of lien pursuant to subdivision
14 (d) has the same effect as recordation of an abstract of a money
15 judgment recorded pursuant to Article 2 (commencing with
16 Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2
17 of the Code of Civil Procedure. The lien created has the same
18 priority as a judgment lien on real property and continues in
19 effect until released. Upon order of the board of supervisors, or
20 any county officer authorized by the board to act on its behalf, a
21 lien created under this section may be released or subordinated in
22 the same manner as a judgment lien on real property may be
23 released or subordinated.

24 (g) The board of supervisors may delegate the hearing
25 required by subdivision (b) to a hearing body designated by the
26 board. The hearing body shall make a written recommendation to
27 the board. The board may adopt the recommendation without
28 further notice of hearing, or may set the matter for a de novo
29 hearing before the board.

30 (h) The board of supervisors may, by ordinance, delegate to a
31 hearing officer appointed pursuant to Section 27720 the powers
32 and duties specified in this section.

33 (i) All moneys collected by the county on behalf of the
34 franchised solid waste enterprise shall be paid by the county to
35 the solid waste enterprise upon collection, or retained by the
36 county if the county elects to pay the solid waste enterprise
37 before the county collects the unpaid amounts.

38 (j) As used in this section, "solid waste enterprise" has the
39 meaning ascribed to it in Section 49504 of the Public Resources
40 Code.

~~SEC. 2. The Legislature finds and declares that there are unique circumstances concerning the payment for the collection of solid waste in Contra Costa County necessitating the enactment of the procedures contained in this act. It is therefore declared that a general law cannot be made applicable within the meaning of Section 16 of Article 16 of the Constitution, and that the enactment of this act as a special law is necessary.~~

SEC. 2. The Legislature finds and declares all of the following:

(a) Cessation of solid waste collection service frequently leads to illegal dumping, which is a health and safety concern affecting the entire community, and which cannot be adequately addressed after the illegal acts of dumping have occurred.

(b) It is the intent of the Legislature to enact legislation to allow Contra Costa County to address the unique problems the county faces related to illegal dumping due to lack of solid waste collection service, by authorizing the adoption of procedures for county intervention before service is terminated.

(c) Due to the unique circumstances related to the disposal of waste in Contra Costa County, a general law cannot be made applicable within the meaning of Section 16 of Article 16 of the California Constitution, and the enactment of this act as a special law is necessary.